

§ 779.267

shall be used, as intended by the Congress (see S. Rept. 145, 87th Cong. first session, p. 38), for computation of annual dollar volume in all cases when such a computation becomes necessary in order to determine the applicability of provisions of the Act.

(b) In order to determine, when there may be doubt, whether an enterprise or establishment has an annual gross volume of sales made or business done in excess of the amount specified in the statute, and analysis will be made at the beginning of each quarter-year so that the employer will know whether or not the dollar volume tests have been met for the purpose of complying with the law in the workweeks ending in the current quarter-year. The total of the gross receipts from all its sales or business during a 12-month period which immediately precedes the quarter-year being tested will be the basis for analysis. When it is necessary to make a determination for enterprises or establishments which are operated on a calendar year basis for income tax or sales or other accounting purposes the quarter-year periods tested will coincide with the calendar quarters (January 1–March 31; April 1–June 30; July 1–September 30; October 1–December 31). On the other hand, where enterprises or establishments are operated on a fiscal year basis, which consists of an annual period different from the calendar year, the four quarters of the fiscal period will be used in lieu of calendar quarters in computing the annual volume. Once either basis has been adopted it must be used in making subsequent calculations. The sales records maintained as a result of the accounting procedures used for tax or other business purposes may be utilized in computing the annual dollar volume provided the same accounting procedure is used consistently and that such procedure accurately reflects the annual volume of sales or business.

§ 779.267 Fluctuations in annual gross volume affecting enterprise coverage and establishment exemptions.

It is possible that the analysis performed at the beginning of each quarter to determine the applicability of the monetary provisions of the Act

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may reveal changes in the annual gross volume or other determinative factors which result in the enterprise or establishment meeting or ceasing to meet one or more of the tests for enterprise coverage or establishment exemption. Thus, enterprise coverage may result where the annual volume increases from an amount under to an amount over \$250,000. Also, an enterprise having an annual gross volume of more than \$1 million and meeting the requirements for a covered retail enterprise under the prior Act on the basis of previous sales analyses may fall below \$1 million when the annual gross volume is computed at the beginning of the quarter being tested and as a result qualify only as a newly covered enterprise for the current quarter under the amended Act. Similarly, an enterprise previously subject to new coverage pay standards, having an annual gross volume of more than \$250,000 but less than \$1 million on the basis of previous sales analyses, may increase its annual gross volume to \$1 million or more when recomputed at the beginning of the quarter being tested. It will thus become for the current quarter an enterprise in which employees are subject to the pay standards for employment covered under the Act prior to the amendments, provided that it meets the other conditions as discussed in § 779.245.

§ 779.268 Grace period of 1 month for computation.

Where it is not practicable to compute the annual gross volume of sales or business under paragraph (b) of § 779.266 in time to determine obligations under the Act for the current quarter, an enterprise or establishment may use a 1-month grace period. If this 1-month grace period is used, the computations made under this section will determine its obligations under the Act for the 3-month period commencing 1 month after the end of the preceding calendar or fiscal quarter. Once adopted the same basis must be used for each successive 3-month period.

§ 779.269 Computations for a new business.

When a new business is commenced the employer will necessarily be unable